

At the Heart of Human Rights Education: The Universal Declaration of Human Rights (UDHR)

Ms. Elena Ippoliti

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Ms. Elena Ippoliti is Human Rights Officer at the Office of the United Nations High Commissioner for Human Rights (Geneva)

Historical Context

In 1941, during World War II, the President of the United States of America, Franklin D. Roosevelt, made a speech to the U.S. Congress, in which he spoke of four essential liberties that should be the basis of a new world order:

1. Freedom of speech and expression;
2. Freedom of belief;
3. Freedom from need;
4. Freedom from fear.

In 1945, 58 states participated in a United Nations Conference. Their mission was to strengthen the United Nations Charter by the creation of an International Charter of Human Rights. In 1946, the Human Rights Commission was founded to work on the Charter of Rights (the Declaration and the Convention) and a division of human rights was formed to support the Commission. The Commission studied articles and proposed texts. They reviewed state constitutions as well as commentaries from other states. In 1948, the General Assembly received the first version of the International Declaration of Human Rights. After 81 meetings and 168 amendments (one of which was France's suggestion of 'Universal'), the Declaration was adopted by the General Assembly on the 10th December, 1948, as the Universal Declaration of Human Rights.

Geo-political Context

In 1948, regional and political differences within the United Nations resulted in different preoccupations for each country. The fourteen western countries adhered to a philosophical tradition of natural law embedded in national law, which put the emphasis on the inherent dignity of being human and of inalienable and equal rights for all. The twenty Latin American and Central American countries adopted a western model, but with even stronger positions. The six socialist countries could see the importance of such a declaration only for capitalist countries. They held that marxism/socialism already guaranteed respect for human rights. While no common, solid position emerged among the fourteen Asian countries, many political leaders and intellectuals of the continent, such as Mr. Gandhi and Charles Malik, did distinguish themselves. Gandhi's input tied duties to rights in Article 29. Charles Malik put forward the concept of wealth-sharing among nations. Certain Muslim countries, including Saudi Arabia and Pakistan, articulated reservations with the documents for cultural reasons.

The Value of the Universal Declaration of Human Rights

Inspired by 55 different state constitutions, the Declaration is a compromise among many different conceptions of humanity and of society. In order to reach consensus, controversial issues, such as the rights of minorities or the reproductive rights of women, were excluded from the final document. Broad language was used and no reference to religion nor philosophical doctrines was made.

Since its adoption, the Declaration has been considered as an interpretative instrument for the articles of the UN Charter that refer to human rights. The Declaration is integrated into the goals and principles of the United Nations in Chapter 1, Article 1, of the Charter. The goals and principles of the United Nations include the following:

- 1) To maintain international peace and security and, to that end: to take effective, collective measures for the prevention and removal of threats to peace and for suppression of acts of aggression or other breaches of the peace and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations that might lead to a breach of the peace;
- 2) To develop friendly relations among nations, based on respect for the principle of equal rights and self-determination of peoples, and to take all other appropriate measures to strengthen universal peace;
- 3) To achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental liberties for all without distinction as to race, sex, language, or religion; and
- 4) To be a centre for harmonizing the actions of nations in the attainment of these common ends.

The principles of the Declaration have been used in the fight against colonialism and have been adopted within national constitutions. The principles are a point of departure for the development of mechanisms in human rights. Today they form part of customary international law, unifying the world around common concepts of human rights that are used by governments, NGOs, and the UN.

The UDHR was important in the establishment of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in 1966. Between 1960 and 1990, the UN adopted the following five instruments: the International Convention for the Elimination of All Forms of Racial Discrimination (1965); Convention of the Elimination of All Forms of Discrimination Against Women (1979); Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984); Convention on the Rights of the Child (1989); and International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990). These documents, as well as other declarations, recommendations, principles, codes of conduct, guidelines, and general observations on the mechanisms of the treaties, are part of the development of international human rights standards. They were developed by the states at the General Assembly, the Commission of Human Rights, the Economic and Social Council, the Sub-Commission for the Prevention of Discrimination and for the Protection of Minorities, and within other specialized agencies and programs of the UN. The states also contributed to the development of human rights standards within regional organizations (e.g., the Council of Europe, the African Union

and the Organization of American States) and by legislative action at the national level. The UDHR is a unifying force for humanity, offering parameters for conduct around the world. It is an essential document for NGOs because it indicates the standards to which states have committed.

Question Period

During the question period, IHRTTP participants brought up the following issues. A summary of the presenter's responses is presented hereunder.

- **The Lack of a Regional Human Rights System in Asia.** It is up to the heads of state of the countries of Asia to develop a system of human rights for the region. For ten years, a process has been under way in Asia Pacific to establish such a system. The High Commission is cooperating in this effort; however, it does not anticipate any Asian Convention to be forthcoming in the near future. There is a great deal of resistance in Asia to drawing up a convention or any such obligatory mechanism. Asian countries are more open to the idea of establishing cooperative projects on certain specific subjects, such as human rights education or the strengthening of national institutions.
- **The UDHR as a Bundle of Western Concepts Imposed on the Countries of the South.** At issue here is the so-called parachuting of human rights into African countries and other countries of the South. Let us balance this idea by keeping in mind the benefits resulting from the Declaration. Also, contributions made to the UDHR by these countries themselves must be acknowledged. Since its adoption in 1948, the Universal Declaration of Human Rights has served as a major tool for African liberation movements, and other anti-colonial liberation movements during the 20th Century. It became more and more embarrassing for western European democracies to participate in signing the UDHR while at the same time possessing colonies around the world. In addition, some countries of the South contributed a great deal to the drafting of the Declaration. While no strong voices came from African countries, there were some from Asia, as noted above. During the drafting of the Declaration, Latin American countries pushed for the use of stronger language than western countries did.
- **Obstacles to Human Rights since World War II as a Result of International Economic Policies.** Poverty in the countries of the South represents a major violation of human rights. Poverty was not eradicated by the adoption of the Declaration, nor by the adoption of other international conventions. Nevertheless, international human rights instruments provide common standards which NGOs can use to demand these rights from their government. The Universal Declaration of Human Rights can be considered the parent of these standards. Without these instruments, we would not have a way to measure the breach between what the human rights situation should be in a country and the reality of the situation as it is.
- **Participation of NGOs in Drafting the Universal Declaration of Human Rights.** Religious groups, professional associations and other members of civil society contributed to the drafting of the Declaration. For example, the delegation from the United States of America consulted forty-two NGOs. In 1945, these non-governmental organizations wanted human rights to be a dominant feature of the UN Charter. While this did not happen, NGOs did continue to fight for a broad definition of human rights, and the Declaration is due in part to their efforts.

- **Technical Language of the International Instruments.** The Declaration was adopted by the General Assembly. It was not passed as a resolution. It is important to distinguish between these two terms. We use the terms “ratification” and “signing” for treaties only. In international law, it is necessary to make a distinction between the declarations that do not have, in principle, binding force, and conventions and treaties which do have binding mechanisms. Signing and ratification only apply to the second category of document. Signing is the first act of engagement of a convention and ratification forces the integration of the signed convention into the national law of the country. The UDHR is not a binding convention. It was neither signed nor ratified, but rather adopted by the UN. It is important to note that since its adoption, it has acquired the status of customary international law.
- **Human Rights in Light of Globalization and the War Against Terrorism.** The High Commissioner is vigilant in keeping watch on new anti-terrorism laws across the world. It is, at the same time, working with world economic institutions (e.g., the World Trade Organization and IMF) to ensure human rights be given consideration in any economic development plans.
- **Using the UDHR for Human Rights Education in Countries at War.** Methodology used in human rights education must be relevant to the target audience. In certain contexts, it may be preferable to approach questions regarding the resolution of armed conflict according to the standards of human rights and of problems of countries at war, rather than the general principles of the Declaration. Nevertheless, as teachers of human rights, it is necessary to know the history and development of the Declaration and the international human rights legal instruments.
- **The Declaration’s Relevance to Aboriginal Peoples Around the World.** The Declaration will probably not be revisited, in spite of a lack of consultation with aboriginal peoples at the time of its adoption. Nevertheless, the Declaration was only the beginning of the drafting of principles of human rights and of international law. The creation of a forum on aboriginal rights at the UN in 2002 represents an important milestone for aboriginal rights, providing a venue for discussion and negotiations without governmental restrictions.